

1                                   **IN THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE DISTRICT OF ARIZONA**

3  
4  
5 State of Arizona, *ex rel.* Kristen K. Mayes,  
6 Attorney General, et. al.;

7                                   Plaintiffs,

8                                   v.

9 Michael D. Lansky, L.L.C., dba Avid  
10 Telecom; et al.;

11                                  Defendants.  
12

CASE NO. CV-23-00233-TUC-CKJ

**ORDER ON PROTOCOL GOVERNING  
ELECTRONICALLY STORED  
INFORMATION AND HARD COPY  
DOCUMENTS**

(Assigned to the Hon. Cindy K. Jorgenson)

13  
14           The Court recognizes that discovery in this action is likely to include electronically stored  
15 information as well as paper documents. The Court finds that a protocol governing the production  
16 of electronically stored information and paper documents will assist the parties in facilitating  
17 document production and disclosures. This Protocol shall remain in effect unless modified  
18 through written agreement of the Parties or through Court intervention.

19           Accordingly, **IT IS ORDERED** that the Plaintiffs’ Motion (Dkt. # 116) is granted and  
20 the following provisions shall be enforced.

21 **A.     GENERAL AGREEMENTS**

22 **1.     General**

23           a.     This Protocol for Electronically Stored Information and Hard Copy  
24 Documents (the “Protocol”) governs the production of all Electronically Stored  
25 Information (“ESI”) and paper (hardcopy) discovery in this matter (“Action”).

26           b.     The Parties agree that should a dispute arise out of the implementation of  
27 this Protocol, the Parties shall meet and confer in an attempt to resolve the dispute. All  
28

1 disputes arising out of this Protocol shall be resolved with reference to the agreements  
2 contained herein and the Federal Rules of Civil Procedure.

3 c. Nothing in this Protocol shall limit a Party's right to object to any discovery  
4 request pursuant to any applicable rule or law, or to modify this Protocol through  
5 agreement of the Parties or through Court intervention.

6 d. A Party producing documents or ESI will be referred to as the "Producing  
7 Party" and a Party receiving documents or ESI will be referred to herein as the "Receiving  
8 Party".

9 **2. Proportionality of Discovery**

10 a. Pursuant to Federal Rule of Civil Procedure 26(b)(1), the Parties agree that  
11 discovery in this Action will be proportional to the needs of the case. To this end, the  
12 Parties will work together in good faith to identify appropriate limits on discovery. These  
13 limits may include the number of custodians, discoverable data sources, the relevant time  
14 period, the permissible scope of requests for production, and the permissible scope of  
15 requests for emails and other ESI. The Parties agree that working in good faith means  
16 cooperating in good faith throughout this matter, including by meeting and conferring over  
17 any disagreements as may arise during the course of discovery before filing a motion to  
18 compel discovery. The Parties agree that whenever possible, requests for production of  
19 ESI, including requests for emails, shall be reasonably targeted, clear, and as specific as  
20 possible, rather than general discovery.

21 b. Custodians

22 i. The Parties shall meet and confer to agree upon the identity of any  
23 Key Custodians (each, a "Key Custodian", and collectively, the "Key  
24 Custodians") and relevant non-custodial data sources. Should the Parties,  
25 through the discovery process, identify a legitimate need to conduct  
26 additional reasonable and proportional discovery related to new Key  
27 Custodians, the Parties shall meet and confer to agree upon additional  
28

1 discovery. If an agreement between the Parties is not reached regarding the  
2 identity of the Key Custodians, the Parties will seek Court assistance to  
3 resolve the issue.

4 ii. The Parties agree to take reasonable steps to identify and search the  
5 sources of potentially relevant and responsive information of each Key  
6 Custodian and non-custodial data source for collection, including but not  
7 limited to hard copy files, texts, e-mail repositories, and folders within  
8 shared network drives in which each Key Custodian places or maintains  
9 documents.

10 c. Discovery Concerning Preservation and Collection Efforts. If, based upon  
11 good faith, there is a reasonable dispute concerning the scope of a Party's preservation or  
12 collection efforts, the Parties agree to meet and confer on the basis for such discovery,  
13 including the need for the requested discovery, relevance to claims or defenses of the  
14 action, proportionality of the proposed discovery, and the suitability of alternative means  
15 for obtaining the information.

16 d. Non-Discoverable ESI. Pursuant to the proportionality standards under  
17 Fed.R.Civ.P. 26(b)(1), and absent a Party's specific written notice for good cause, the  
18 following categories of ESI are presumed to be inaccessible and not discoverable:

- 19 i. ESI deleted in the normal course of business prior to the Party's preservation  
20 obligation in this matter;
- 21 ii. Backup data files that are (a) maintained in the normal course of business for  
22 purposes of disaster recovery, including but not limited to backup tapes,  
23 disks, SAN, and other forms of media, and (b) substantially duplicative of  
24 data that are accessible elsewhere;
- 25 iii. Deleted, slack, fragmented, or unallocated data only accessible by forensics;
- 26 iv. Random access memory (RAM) or temporary files that are difficult to  
27 preserve without disabling the operating system;
- 28

- v. On-line access data such as (without limitation) temporary internet files, history files, cache files, and cookies;
- vi. Data in metadata fields frequently updated automatically, such as last-opened or last-printed dates;
- vii. Data remaining from systems no longer in use that is unintelligible on the systems in use;
- viii. De-NISTing - Software files included on the National Institute of Standards and Technology (NIST) Modern RDS (minimal) list obtained from <https://www.nist.gov/itl/ssd/software-quality-group/national-software-reference-library-nsrl/nsrl-download/current-rds>;
- ix. Operating System files that do not store user-created content (e.g. CAT, DLL, DMP, EXE, FON, PNF, OPS, SYS, etc.).

e. Disaster-Recovery Backup Data. Unless the data is more readily accessible elsewhere as contemplated by 2.d.ii. above, each Party shall provide the other with information regarding any applicable data retention procedures, then in place, which may impact potential discovery requests or ESI in this matter. Otherwise, absent an objection from either Party, agreement of the Parties, or Court order, no Party shall be required to modify or suspend procedures, including rotation of backup media, used in the normal course of business to back up data and systems for disaster recovery purposes.

### **3. Designation of Discovery Requests**

Productions of hardcopy documents and ESI in the reasonably usable form set out in this Protocol, including Appendix A, should be organized and labeled to correspond to the categories in the requests.

### **4. Clawback of Privileged Information**

The production and clawback of privileged information is governed by the Protective Order entered in this matter (Dkt. 109) or as it may be amended by the Court.

1 **B. ELECTRONICALLY STORED INFORMATION**

2 **1. Production in Reasonably Usable Form**

3 a. Rolling Production. The Parties agree that ESI will be produced within five  
4 (5) days of serving written responses, unless the parties mutually agree otherwise.

5 b. Reasonably Usable Form. The Parties shall produce ESI in a reasonably  
6 usable form. Except as stated in paragraphs B(2) through B(3) below, or as agreed  
7 hereafter by the Parties, such reasonably usable form shall be the single-page, black and  
8 white, Group IV TIFF-image format with extracted or OCR text and associated metadata  
9 set out in Appendix A, which is incorporated in full in this protocol. Each Group IV TIFF  
10 version of an electronic document will be created directly from the corresponding native  
11 file. If the Receiving Party, for good cause explained in the request, seeks production in  
12 native format of specifically identified ESI produced originally in Group IV TIFF-image  
13 form, the Producing Party shall respond reasonably and in good faith to any such request.

14 c. Redactions. The Producing Party may redact from any Group IV TIFF  
15 image, metadata field, or native file, material (i) that is protected from disclosure by any  
16 applicable privilege or immunity, (ii) governed by applicable privacy law or regulation,  
17 or (iii) that any Protective Order entered in this Action allows to be redacted. The basis  
18 for each redaction shall be annotated (*i.e.*, Redacted - Privacy, Redacted – Attorney Client  
19 Privilege, Redacted – Work-Product, etc.) on the redaction itself, to reflect the basis for  
20 such redaction(s). Redactions made in accordance with these provisions need not be  
21 included on a privilege log or redaction log. Following the production of documents  
22 redacted for privilege, the parties may meet and confer on any reasonable requests from  
23 the Receiving Party for privilege log entries related to individual documents redacted for  
24 privilege if the redaction(s) are so substantial that they remove the context necessary to  
25 evaluate the appropriateness of the redaction(s) and would require a description to allow  
26 the receiving party to assess the privilege claim.

1           d.     Color. Where an original document contains color, the Parties shall make  
2 reasonable efforts to produce such documents in color as single page, JPED images.  
3 Parties will honor reasonable requests for re-production of any color images produced in  
4 black and white TIFF images.

5           **2.     Electronic Spreadsheets, Word Processing, Multimedia and Presentation**  
6           **Files**

7           a.     To the extent possible, spreadsheet file, including without limitation  
8 Microsoft Excel Files (\*.xls or \*.xlsx), shall be produced in native format. Otherwise,  
9 such files shall be with related searchable text, metadata, and bibliographic information,  
10 and shall display any hidden rows, columns, and worksheets, if any.

11          b.     To the extent possible, word-processing files, including without limitation  
12 Microsoft Word Files (\*.doc and \*.docx) shall be produced in TIFF format, with any  
13 tracked changes, comments, or hidden text displayed

14          c.     Except if redacted, photographs, video and any other audio/visual  
15 multimedia files will be produced in native format. Such files may include, but are not  
16 limited to video files (*e.g.*, .wma, .mov, .mpg, .wmv, .avi, and .asf), Microsoft PowerPoint  
17 files (.ppt and .pptx), and computer animation files (*e.g.*, .avi, .gif, .mpg, .gif, .mpg, .mpeg,  
18 .wmv).

19          d.     When producing documents in native format, the Producing Party  
20 shall insert into the production a “placeholder” file to reflect that the document has been  
21 produced natively.

22          e.     Any produced native file will be named according to the first Bates number  
23 of the corresponding electronic document (*e.g.*, [Begin Bates].xlsx).

24           **3.     Structured Data from Enterprise Databases, Database Management Systems**  
25           **and other Structured Data**

26           To the extent possible, ESI in an enterprise database or database management system (*e.g.*,  
27 Oracle, SQL server, DB2) will be produced in the reasonably usable Group IV TIFF-image form  
28

1 described in Appendix A, in an already existing and reasonably available report format. If an  
2 existing report form is not reasonably available, the Parties shall export from the original database  
3 discoverable information in a format compatible with Microsoft Excel or Microsoft Access, and  
4 the information shall be produced in that native format.

5 **4. Additional Procedures for Native Format Files**

6 a. Procedures for assigning production numbers and confidentiality  
7 information to files produced in native format are addressed in Appendix A, Paragraph  
8 A.14.

9 b. Any Party seeking to use, in any proceeding in this Action, files produced  
10 in native format shall do so subject to the following:

- 11 i. If the native file has been converted to Group IV TIFF-image or  
12 hardcopy, the original production number and confidentiality  
13 designation shall be stamped on each page of the resulting Group IV  
14 TIFF-image or hardcopy document representing the original native-  
15 format file, with a suffix added to the production number to identify  
16 the particular page in the file (e.g., XYZ00001\_001).
  - 17 ii. If the file will be used in its native format, the Party seeking to use  
18 the native file shall first provide to other Parties, sufficiently in  
19 advance of such use that the Producing Party can confirm that the file  
20 to be used is the same as the file produced, both the production  
21 number and the MD5 or SHA-1 hash value of the file.
  - 22 iii. Use of a file in native format, or use of a Group IV TIFF-image or  
23 hardcopy document representing the original native-format file shall  
24 constitute a representation that the file being used is an accurate and  
25 complete depiction of the original native-format file.
- 26  
27  
28

1           **5. Use of Search Terms and Filters**

2           a. To contain costs in the identification of relevant ESI for review and  
3 production, the Parties agree to meet and confer to discuss the use of reasonable search  
4 terms, proximity filters, file types among other possible filters, or the use of advanced  
5 search and retrieval technologies, such as predictive coding or other technology-assisted  
6 review.

7           b. In meeting and conferring on the use of search terms and filters, the  
8 Producing Party shall first disclose its search terms or filters to the Receiving Party, and  
9 if the Receiving Party believes in good faith that use of the disclosed search filters may  
10 result in deficiencies in production, the Receiving Party may make prompt, reasonable  
11 requests for different or additional searches/terms. The Producing Party shall respond  
12 reasonably to such requests and meet and confer if necessary. Any proposed search filters  
13 shall be tailored to the particular claims and defenses at issue and proportional to the needs  
14 of the case, in accordance with the Federal Rules of Civil Procedure.

15           c. The fact that any electronic file has been identified in agreed-upon searches  
16 shall not prevent any Party from withholding such file from production on the grounds  
17 that the file is not responsive, protected from disclosure by applicable privilege or  
18 immunity, governed by the applicable privacy laws or regulations, or that any Protective  
19 Order entered in this Action allows the file to be withheld.

20           d. Nothing in this section shall limit a Party's right to reasonably seek  
21 agreement from the other Parties or a court ruling to modify previously agreed-upon  
22 search terms.

23           **6. De-Duplication**

24           "Duplicate ESI" means files that are exact duplicates based on the files' MD5 or  
25 SHA-1 hash values. The Producing Party need produce only a single copy of responsive Duplicate  
26 ESI. A Producing Party shall take reasonable steps to de-duplicate ESI globally (*i.e.*, both within  
27 a particular custodian's files and across all custodians). Entire document families may constitute  
28



1 Duplicate ESI. De-duplication shall not break apart document families. Attachments to parent  
2 documents may not be deduplicated against a duplicate standalone version of the attachment.  
3 Similarly, standalone versions of the documents may not be suppressed if a duplicate version  
4 exists exclusively as an attachment. When the Duplicate ESI exists in the files of multiple  
5 custodians, all such custodians shall be listed in the ALLCUSTODIANS field identified in  
6 Paragraph A.13(c) of Appendix A.

7 **C. DOCUMENTS THAT EXIST IN ONLY HARDCOPY (PAPER) FORM**

8 To the extent documents exist solely in hardcopy (paper) form, a Producing Party should  
9 scan and produce such documents in accordance with the procedures set out in Appendix A.11.  
10 Such paper documents shall be produced as Group IV TIFF images with related Optical Character  
11 Recognition (“OCR”) text files and a cross-referenced load file, according to the specifications  
12 set forth in Appendix A11.

13 **D. CONFIDENTIALITY**

14 The Parties agree to incorporate the provisions of the Protective Order, (Dkt. 109)  
15 concerning protection of “Confidential Information” as that term is defined in the Protective  
16 Order, any further orders by the Court, and any written agreements between the parties  
17 concerning the protection or handling of otherwise sensitive information not specifically  
18 addressed under the Protective Order. For the avoidance of doubt, nothing in this Stipulation shall  
19 supersede or alter any discovery confidentiality agreement and/or protective order concerning  
20 protection of confidential or otherwise sensitive information that may be entered by the Court.

21 **E. COSTS OF PRODUCTION**

22 Each Party shall bear its own costs of production, but no Party waives the right to seek  
23 reimbursement in the future for costs of production, pursuant to the Federal Rules of Civil  
24 Procedure, other applicable rules, or other applicable case law.

1 **F. CLAIMS OF PRIVILEGE**

2 **1. Privilege Log**

3 a. Any document falling within the scope of any request for production or  
4 subpoena that is withheld on the basis of a claim of attorney-client privilege, work product,  
5 or any other claim of privilege or immunity from discovery is to be identified by the  
6 Producing Party in a privilege log. Such privilege log shall be provided to the Receiving  
7 Party within thirty (30) days of production by a Producing Party, unless otherwise agreed  
8 to by the parties.

9 b. The privilege log must contain the following information for each  
10 document:

- 11 i. A document identification number and/or bates number;
- 12 ii. the date of the document or communication;
- 13 iii. the identity of the document author;
- 14 iv. and, if the document is an email, from and to whom the  
15 communication was sent and who, if anyone, was carbon or blind-  
16 copied;
- 17 v. an indication of all authors or recipients of the document who are  
18 attorneys and/or legal staff;
- 19 vi. unless itself privileged, the subject and/or title of the withheld  
20 document;
- 21 vii. unless itself privileged, the filename of the withheld document,  
22 including file extension;
- 23 viii. a statement of the ground(s) alleged for withholding such document;  
24 and
- 25 ix. a description of the withheld document, communication, or tangible  
26 thing in a manner that, without revealing information claimed  
27  
28

1 privileged or protected, will enable the Receiving Party to assess the  
2 validity or efficacy of the privilege claim.

3 c. The Parties further agree that, in order to promote efficiency and cost  
4 reduction, documents may be logged on a categorical basis *in certain circumstances*,  
5 including in scenarios where the privileged documents in question are so voluminous that  
6 to require a producing party to produce such privilege log entries on a document-by-  
7 document basis would prove unduly burdensome. The Parties should identify categories  
8 into which the withheld documents can be arranged that will permit the requesting party  
9 to assess the basis for privilege and the general subject matter of documents in any such  
10 category. The categorical log should, at a minimum, include the following: (i) date ranges  
11 of withheld documents; (ii) list of authors/recipients of such documents; (iii) document  
12 type(s); (iv) category description; (v) privilege basis(es); and (vi) approximate number of  
13 documents withheld in any given category. Should a requesting party have a good faith  
14 reason to believe a particular category on a categorical privilege log contains responsive  
15 non-privileged information, the requesting party may request, and the producing party will  
16 not unreasonably refuse, to create a privilege log for that category in compliance with  
17 Fed.R.Civ.P. 26(b)(5).

18 d. Notwithstanding a claim of privilege, any document containing both  
19 privileged and non-privileged matter must be produced with the purportedly privileged  
20 portion redacted, with the redacted portion indicated on the document itself. For emails,  
21 the bibliographic information (to/from/cc/bcc/date sent/time sent/subject) shall not be  
22 redacted unless the information is itself privileged.

23 e. Privileged communications between or among counsel involving the facts  
24 that form the basis of or are related to the allegations set forth in this Action do not need  
25 to be identified on a privilege log. Additionally, communications between or among  
26 counsel or experts retained for the purpose of this litigation that post-date the issuance of  
27 the civil investigative demand by the Office of the Indiana Attorney General to Michael  
28

1 D. Lansky, L.L.C., dba Avid Telecom on August 1, 2022, need not be placed on a privilege  
2 log.

3 f. Following the receipt of a privilege log, a Receiving Party may identify, in  
4 writing, the particular documents that it believes require further explanation within thirty  
5 (30) days of receipt of the privilege log. Within thirty (30) days of such an identification,  
6 the Producing Party must respond to the request. If a Party challenges a request for further  
7 information, or if the Receiving Party has issues with any further explanation, as the case  
8 may be, the Parties shall meet and confer to try to reach a mutually agreeable solution. If  
9 they cannot agree, the matter shall be brought to the Court.

10  
11 **IT IS SO ORDERED.**  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **APPENDIX A**

2  
3 **STIPULATION REGARDING ELECTRONICALLY STORED**  
4 **INFORMATION AND HARD COPY PROTOCOL**  
5

6 A.1. Image Files. Files produced in TIFF image format will be single page black and  
7 white TIFF files at 300 DPI, 8 ½ x 11-inch page size, Group IV compression. To the extent  
8 possible, original orientation will be maintained (*i.e.*, portrait-to-portrait and landscape-to-  
9 landscape). Each TIFF file will be assigned a unique name matching the production number of  
10 the corresponding page. Such files will be grouped in folders of no more than 1,000 TIFF files  
11 each unless necessary to prevent a file from splitting across folders. Files will not be split across  
12 folders and separate folders will not be created for each file. Production (“Bates”) numbers shall  
13 be endorsed on the lower right corner of all images. This number shall be a unique, consistently  
14 formatted identifier that will:

- 15 a) be consistent across the production;  
16 b) contain no special characters; and  
17 c) be numerically sequential within a given file.

18 Bates numbers should be a combination of an alpha prefix along with a 6-digit number (*e.g.*,  
19 ABC\_000001). The number of digits in the numeric portion of the Bates number format should  
20 not change in subsequent productions. Confidentiality designations, if any, will be endorsed on  
21 the lower left corner of all images and shall not obscure any portion of the original file.

22 A.2. File Text. Except where ESI contains text that has been redacted under assertion  
23 of privilege or other protection from disclosure, full extracted text will be provided in the format  
24 of a single \*.txt file for each file (*i.e.*, not one \*.txt file per TIFF image). Where ESI contains text  
25 that has been redacted under assertion of privilege or other protection from disclosure, the  
26 redacted TIFF image will be OCR’d and file-level OCR text will be provided in lieu of extracted  
27 text. Searchable text will be produced as file-level multi-page UTF-8 text files with the text file  
28

1 named to match the beginning production number of the file. The full path of the text file must  
2 be provided in the \*.dat data load file.

3       A.3. Unitization. A unitization file, in standard format (*e.g.*, Concordance, Opticon,  
4 Summation DII, or the like) showing the Bates number of each page, the appropriate unitization  
5 of the documents, and the entire family range, will accompany each Group IV TIFF document.  
6 The unitization of the document and any attachments shall be maintained as it existed in the  
7 original when creating the image file. The relationship of documents in a document collection  
8 (*e.g.*, cover letter and enclosures, email and attachments, binder containing multiple documents,  
9 or other documents where a parent-child relationship exists between the documents) shall be  
10 maintained through the scanning or conversion process. If more than one level of parent-child  
11 relationship exists, documents will be kept in order, but will be treated as children of the initial  
12 parent document. Such information shall be produced in the load file, in a manner to enable the  
13 parent-child relationship among documents in a document collection to be reconstituted by the  
14 Receiving Party in commercially available document management software such as Concordance,  
15 Relativity, or Everlaw.

16       A.4. Parent-Child Relationships. The Parties agree that if any part of a document, or  
17 any attachment thereto, is responsive, the entire document and all associated attachments will be  
18 produced, with the exception of documents that must be withheld and logged based on privilege  
19 or work-product protection, or redacted. Such parent-child relationships (*e.g.*, the associations  
20 between emails and their attachments) will be preserved. Email and other ESI attachments will  
21 be produced as independent files immediately following the parent email or ESI record. Parent-  
22 child relationships will be identified in the data load file pursuant to paragraph A.13 below.

23       A.5. Dynamic Fields. Files containing dynamic fields such as file names, dates, and  
24 times will be produced showing the field code (*e.g.*, “[FILENAME]” or “[AUTODATE]”), rather  
25 than the values for such fields existing at the time the file is processed.  
26  
27  
28

1           A.6. English Language. To the extent any data exists in more than one language, the  
2 data will be produced in English, if available. If no English version of a file is available, the  
3 Producing Party shall not have an obligation to produce an English translation of the data.

4           A.7. Embedded Objects and Hyperlinked documents. Some Microsoft Office and .RTF  
5 files may contain embedded objects. Such objects typically are the following file types: Microsoft  
6 Excel, Word, PowerPoint, Project, Outlook, and Access, and PDF. To the extent reasonably  
7 possible, objects with those identified file types shall be extracted as separate files or produced as  
8 attachments to the file in which they were embedded. To the extent possible, any hyperlinked  
9 documents or files upon which the contents of the parent rely for context, should be produced as  
10 separate, attached documents. Following production of documents where such embedded objects  
11 or hyperlinked documents could not be extracted or produced, the Parties may meet and confer  
12 on reasonable requests for this information.

13           A.8. Compressed Files. Compressed file types (*i.e.*, .CAB, .GZ, .TAR, .Z, .ZIP) shall  
14 be decompressed in a reiterative manner to ensure that a zip within a zip is decompressed into the  
15 lowest possible compression resulting in individual files.

16           A.9. Encrypted Files. The Producing Party will take reasonable steps, prior to  
17 production, to unencrypt any discoverable electronically stored information that exists in  
18 encrypted format (*e.g.*, because password-protected) and that can be reasonably unencrypted.  
19 This provision does not require a forensic level tool or password cracking software to be utilized  
20 to decrypt a document. The Parties agree to meet and confer in good faith to discuss any encrypted  
21 file that could not be unencrypted under this provision.

22           A.10. Fixed Notes. For documents that contain fixed notes (*e.g.*, “post-it notes”), the  
23 pages will be scanned or converted both with and without notes and those pages will be treated  
24 as part of the same document. If the burden on the Producing Party associated with production of  
25 documents with fixed notes becomes unreasonable, the Parties agree to meet and confer on the  
26 requirements of this subparagraph.

1           A.11. Scanned Hardcopy Documents:

- 2           a)     In scanning hardcopy documents, multiple distinct documents should not  
3                   be merged into a single record, and single documents should not be split  
4                   into multiple records (*i.e.*, hard copy documents should be logically  
5                   unitized).
- 6           b)     OCR for scanned images of hard copy documents should be performed on  
7                   a document level and provided in document-level \*.txt files named to  
8                   match the production number of the first page of the document to which  
9                   the OCR text corresponds. OCR text should not be delivered in the data  
10                  load file or any other delimited text file.
- 11          c)     In the case of an organized compilation of separate hardcopy documents—  
12                  for example, a binder containing several separate documents behind  
13                  numbered tabs—the document behind each tab should be scanned  
14                  separately, but the relationship among the documents in the binder should  
15                  be reflected in proper coding of the family fields set out below.

16          A.12. Production Numbering. In following the requirements of Paragraph A.1, the  
17          Producing Party shall take reasonable steps to ensure that attachments to documents or electronic  
18          files are assigned production numbers that directly follow the production numbers on the  
19          documents or files to which they were attached. If a production number or set of production  
20          numbers is skipped, the skipped number or set of numbers will be noted. In addition, wherever  
21          possible, each TIFF image will have its assigned production number electronically “burned” onto  
22          the image.

23          A.13. Data and Image Load Files.

- 24          a)     Load Files Required. Unless otherwise agreed, each production will  
25                  include a data load file in Concordance (\*.dat) format and an image load  
26                  file in Opticon (\*.opt) format.



b) Load File Formats.

- i. Load file names should contain the volume name of the production media. Additional descriptive information may be provided after the volume name. For example, either ABC001.dat or ABC001\_metadata.dat would be acceptable.
- ii. Unless other delimiters are specified, any fielded data provided in a load file should use Concordance default delimiters. Semicolon (;) should be used as multi-entry separator.
- iii. Any delimited text file containing fielded data should contain in the first line a list of the fields provided in the order in which they are organized in the file.

- c) Fields to be Included in Data Load File. For all documents or electronic files produced, the following metadata fields for each document or electronic file, if available at the time of collection and processing, will be provided in the data load file pursuant to subparagraph (a), above, except to the extent that a document or electronic file has been produced with redactions. The term “Scanned Docs” refers to documents that are in hard copy form at the time of collection and have been scanned into TIFF images. The term “Email and E-Docs” refers to files that are in electronic form at the time of their collection.

**METADATA TABLE OF REQUESTED FIELDS**

Field Name	Field Description	Field Type
Volume Name	Production volume number (e.g., ABC001-001)	Note Text
Begin Bates	Start Bates (including prefix) -- No spaces or special characters	Note Text
End Bates	End Bates (including prefix) - No spaces or special characters	Note Text

1		Range of the Begin Bates value of the parent record to the	
2		End Bates value (including prefix) of the last child record	
3		(for example, ABC-JD-00001201 ABC-JD-00001220);	
4	Family Range	populated for all documents in the group. Empty if the	Note Text
5		record is NOT in family grouping	
6		Parent record's BEGDOC#, including prefix (populated	
7	BeginFamily	ONLY in child records)	Note Text
8	Pages	Page count	Integer
9	Redacted	User-generated field that will indicate redactions. "X,"	Multi- Entry
10		"Y," "Yes," "True," are all acceptable indicators that the	
11		Document is redacted. Otherwise, blank.	
12		Custodian(s) / source(s) - format: Last, First or ABC Dept	Multi- Entry
13	Custodian		
14		Custodian(s) / source(s) - format: Last, First or ABC Dept	Multi- Entry
15	All Custodians		
16	Time and zone	The Time and Zone from which the native file was	Note Text
17		collected.	
18		Author of the Email or Calendar item (as formatted on the	
19	From	original)	Note Text
20			Multi- Entry
21	To	Recipients of the Email (as formatted on the original)	
22			
23	Cc	Names of the individuals (All recipients) who were copied	Multi- Entry
24		on the Email (as formatted on the original)	
25		Names of the individuals (All recipients) who were blind-	Multi- Entry
26	Bcc	copied on the Email (as formatted on the original)	
27	Subject	Email or calendar subject	Note Text

1	Date Sent	Date the Email was sent. Format: DD.MM.YYYY	Date
2		Time Email was sent -- Format: HH:MM:SS (use 24 hour	
3		times, e.g., 13:32 for	
4	Time Only	1:32 pm; time zone indicators cannot be included)	Time
5	Date Received	Date Email was received. Format: DD.MM.YYYY	Date
6		Proprietary email database/mailstore/post office file	
7		associated with centrally managed enterprise email	
8		servers. Microsoft Outlook PST EntryID, the UniqueID	
9		(UNID) for Lotus Notes, equivalent value for other	
10	Message ID	proprietary	Note Text
11		mailstore formats.	
12	Conversation		
13	Index	Email Thread Identification	Note Text
14	Importance	Email flag indicating priority level set for message	Note Text
15	Date Created	Date electronic file was created. Format: DD.MM.YYYY	Date
16		Date native file was last modified. Format:	
17	Date Saved	DD.MM.YYYY	Date
18		Author field value extracted from the metadata of a native	
19	Author	file	Note Text
20	File Path	File path to native file as it existed in original environment	Note Text
21		File path location to the current native file location on the	
22	Native Path	delivery medium	Note Text
23			

24 A.14. Files Produced in Native Format. Any electronic file produced in native file format  
25 shall be given a file name consisting of a unique Bates number and, as applicable, a confidentiality  
26 designation; for example, “ABC\_000002\_Confidential.” For each native file produced, the  
27 production will include a TIFF image slipsheet indicating the production number of the native file

1 and the confidentiality designation, and stating “File Produced Natively.” To the extent that it is  
2 available, the original file text shall be provided in a file-level multi-page UTF-8 text file with a  
3 text path provided in the \*.dat file; otherwise the text contained on the slipsheet shall be provided  
4 in the \*.txt file with the text path provided in the \*.dat file.

5 A.15. Production Media. Unless otherwise agreed, documents and ESI will be produced  
6 on external hard drive, secure FTP site, or similar electronic format. Such media should have an  
7 alphanumeric volume name; if a hard drive contains multiple volumes, each volume should be  
8 contained in an appropriately named folder at the root of the drive. Volumes should be numbered  
9 consecutively (ABC001, ABC002, etc.). Deliverable media should be labeled with the name of  
10 this action, the identity of the Producing Party, and the following information: Volume name,  
11 production range(s), and date of delivery.

12 A.16. Production of Non-Party discovery. Unless otherwise agreed, any ESI or paper  
13 discovery received by a party from any Non-Party in this matter (as defined in the Protective  
14 Order) pursuant to subpoena, or other document request, may be circulated to all other parties in  
15 accordance with A. 15. above, without any additional processing by the party circulating such ESI  
16 or paper discovery, or such discovery may be produced in accordance with this Protocol. In  
17 addition, as contemplated by, and in accordance with Paragraph II. 10. of the Protective Order,  
18 any party circulating such discovery shall circulate it in accordance with any applicable  
19 confidentiality designations prescribed by such Non-Party in writing or otherwise.

20 A.17. Encryption of Production Media. To maximize the security of information in  
21 transit, any media on which documents or electronic files are produced may be encrypted by the  
22 Producing Party. In such cases, the Producing Party shall transmit the encryption key or password  
23 to the Receiving Party, under separate cover, contemporaneously with sending the encrypted  
24 media.